

NOTIFICATION.

Order No. L.D. 1943—Legis. 65-51-1, Dated Bangalore, 18th January 1952. 129

Ordered that the accompanying City of Bangalore Improvement (Amendment) Act, 1952, which received the assent of His Highness the Maharaja on the 13th day of January 1952 be published as Mysore Act No. III of 1952, in the *Mysore Gazette* for general information

By Order of His Highness the Maharaja,
N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

MYSORE ACT No. III OF 1952.

THE CITY OF BANGALORE IMPROVEMENT
(AMENDMENT) Act, 1952.

*Received the assent of H. H. the Maharaja on the
Thirteenth Day of January 1952.*

An Act further to amend the City of Bangalore
Improvement Act, 1945.

Preamble.

WHEREAS it is expedient further to amend the City of Bangalore Improvement Act, 1945, (Mysore Act V of 1945); for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (i) This Act may be called the City of Bangalore Improvement (Amendment) Act, 1952.

Short title and
commence-
ment.

(2) It shall come into force at once.

2. In the City of Bangalore Improvement Act, 1945, (hereinafter referred to as the said Act),

Substitution
of certain
expressions
for expressions
occurring in
Mysore Act V
of 1945.

(i) for the words and figure "Mysore City Municipalities Act, 1933," the words and figure "City of Bangalore Municipal Corporation Act, 1949,";

(ii) for the words "Official Gazette", the words "*Mysore Gazette*"; and

(iii) for the words "Municipal Council", the word "Corporation"

shall be substituted wherever they occur.

Substitution of new section for section 2 of Mysore Act V of 1945.

30 3. For section 2 of the said Act, the following section shall be substituted, namely:—

Definitions.

“2. In this Act, unless there is anything repugnant in the subject or context,

- (1) ‘betterment fee’ means the fee payable under section 18-A, in respect of an increase in the value of land resulting from the execution of an improvement scheme;
- (2) ‘Board’ means the Board of trustees for the improvement of the City of Bangalore constituted under sections 3 and 4;
- (3) ‘Chairman’ means the Chairman of the Board;
- (4) ‘Corporation’ means the Corporation of the City of Bangalore constituted under the City of Bangalore Municipal Corporation Act, 1949;
- (5) ‘Government’ means the Government of Mysore;
- (6) ‘land’ has the same meaning as in clause (c) of section 3 of the Mysore Land Acquisition Act, 1894;
- (7) ‘prescribed’ means prescribed by rules made under this Act;
- (8) ‘street’ includes any highway and any causeway, bridge, viaduct, arch, road, lane, foot-way, square, court, alley or passage, whether a thoroughfare or not;
- (9) ‘trustee’ means a member of the Board;
- (10) All other words and expressions shall have the meanings respectively assigned to them by the City of Bangalore Municipal Corporation Act, 1949.”

Amendment of section 4 of Mysore Act V of 1945.

4. In section 4 of the said Act, for the words “Municipal Councillors of the City”, the words “Councillors of the Corporation” shall be substituted.

Amendment of section 8 of Mysore Act V of 1945.

5. In clause (g) of sub-section (1) of section 8 of the said Act, for the words “Municipal Councillor,” the words “Councillor of the Corporation” shall be substituted.

6. In sub-section (3) of section 9 of the said Act, after the words "as it thinks fit", the words "and may, with the approval of the Government, associate with such committees in such manner and for such period as may be prescribed, any person or persons whose assistance or advice it may desire" shall be inserted.

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Amendment
of section 9 of
Mysore Act V
of 1945.

7. For section 10 of the said Act, the following section shall be substituted, namely:—

Powers of
different
authorities.

"10. (1) The Chairman may, on behalf of the Board, sanction any estimate, call for tenders or enter into any contract or agreement whereof the value or amount shall not exceed three thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; and every such contract or agreement shall be reported to the Board at the next ordinary meeting thereof.

(2) The Board may sanction any estimate, call for tenders or enter into any contract or agreement the value whereof exceeds three thousand rupees but does not exceed ten thousand rupees; and where the value of any estimate, contract or agreement exceeds ten thousand rupees the previous sanction of the Government shall be required.

(3) Every contract or agreement on behalf of the Board, other than a contract or agreement referred to in sub-section (1), shall be in writing and shall be signed by the Chairman and sealed with the common seal of the Board. No contract or agreement unless executed as in this section provided shall be binding on the Board.

(4) The common seal of the Board shall remain in the custody of the Chairman who shall personally affix the seal to any contract or other instrument."

8. After clause (3) of section 12 of the said Act, the following clause shall be inserted, namely:—

Amendment of
section 12 of
Mysore Act V
of 1945.

"(3-A) carry out and execute such schemes and works as the Government may direct and incur necessary expenditure therefor;"

9. For section 14 of the said Act, the following section shall be substituted, namely:—

Substitution
of new section
for section 14
of Mysore
Act V of 1945.

Power of Board to undertake works and incur expenditure for improvement, etc.

132 " 14. (1) The Board may, subject to the control of the Government,

(a) draw up detailed schemes (hereinafter referred to as 'improvement scheme') for the improvement or expansion or both of the areas to which this Act applies ;

(b) undertake any works and incur any expenditure for the improvement or development of any such area and for the framing and execution of such improvement schemes as may be necessary from time to time.

(2) The Board may also from time to time make any new or additional improvement schemes,

(i) on its own initiative, if satisfied of the sufficiency of its resources, or

(ii) on the recommendations of the Corporation if the Corporation places at the disposal of the Board the necessary funds for framing and carrying out any such scheme, or

(iii) otherwise.

(3) Notwithstanding anything to the contrary contained in this Act, or in any other law for the time being in force, the Government may, whenever they deem it necessary, require the Board to take up any improvement scheme or work and execute it subject to such terms and conditions as may be specified by the Government."

Amendment of section 15 of Mysore Act V of 1945.

10. In sub-clause (c) of clause (1) of section 15 of the said Act, the words "and lighting", shall be omitted.

Amendment of section 16 of Mysore Act V of 1945.

11. In section 16 of the said Act,

(1) in sub-section (1), for the words "land proposed to be acquired", the words "land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee" shall be substituted; and for the word "President," the word "Mayor" shall be substituted.

(2) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) During the thirty days next following the day on which such notification is published in the *Mysore*

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Gazette, the Board shall serve a notice on every person whose name appears in the assessment list of the corporation or the municipality or local body concerned or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment on any building or land which it is proposed to acquire in executing the scheme, or in regard to which the Board proposes to recover a betterment fee, stating that the Board proposes to acquire such building or land or to recover such betterment fee for the purpose of carrying out an improvement scheme and requiring an answer within thirty days from the date of service of the notice stating whether the person so served, dissents or not to such acquisition of the building or land or to the recovery of such betterment fee, and if the person dissents, the reasons for such dissent."

12. In clause (b) of sub-section (2) of section 18 of the said Act, for the letters and figure "Rs. 2,500", the words "five per cent" shall be substituted.

Amendment of section 18 of Mysore Act V of 1945.

13. After section 18 of the said Act, the following sections shall be inserted, namely :—

Insertion of new sections 18-A, 18-B, 18-C, 18-D, 18-E, 18-F, 18-G, 18-H, 18-I, 18-J, 18-K and 18-L in Mysore Act V of 1945.

"18-A. (1) When, by the making of any improvement scheme, any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may declare that a betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

Payment of betterment fee.

(2) Such increase in value shall be the amount by which the value of the land, on the completion of the execution of the scheme, estimated as if the land were clear of buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner,

134 and the betterment fee shall be one-third of such increase in value.

Assessment of betterment fee by the Board.

18-B. (1) When it appears to the Board that an improvement scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Board shall, by a resolution passed in this behalf, declare that for the purpose of determining such fee the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of land to be assessed has been served under sub-section (2) of section 16 or to the successor-in-interest of such person, as the case may be, that the Board proposes to assess the amount of the betterment fee payable in respect of such land under section 18-A.

(2) The Board shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of notice in writing of such assessment from the Board inform the Board in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned does not accept the assessment made by the Board or fails to give the Board the information required under sub-section (2) within the period specified therein, the matter shall be determined by an arbitrator appointed by the Government.

Settlement of betterment fee by arbitrator.

18-C. (1) If the Government are satisfied after such inquiry, as they think fit, that any arbitrator appointed under sub-section (4) of section 18-B has misconducted himself, they may remove him.

(2) If any such arbitrator dies, resigns, becomes disqualified, is removed, or refuses to perform or, in the opinion of the Government, neglects to perform or becomes incapable of performing his functions, the Government shall forthwith appoint another arbitrator.

(3) When the arbitrator has made his award, he shall sign it and forward it to the Board and such award shall, subject to the provisions of sub-section (4), be final and conclusive and binding on all persons.

(4) Any party aggrieved by an award including the finding on costs under sub-section (3) of section 18-E if any, may, within one month from the date of the communication thereof, appeal to the District Judge, Bangalore Division, whether the case arises within or outside the limits of the City, and any order or decision of the said District Judge shall be final and conclusive and binding on all persons.

18-D. The Board shall pay to the arbitrator a fee to be determined by the Government in respect of the whole of the scheme for which his services are utilized.

Fee for arbitrator.

18-E. (1) The arbitrator shall give notice of his proceedings and conduct them in the manner prescribed by the Government and communicate the substance of his award in writing to the parties concerned :

Powers and duties of arbitrator.

Provided that every party to such proceedings shall be entitled to appear before the arbitrator either in person or by his authorised agent.

(2) The arbitrator shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling the production of documents and other material objects.

(3) The costs of and incident to all proceedings before the arbitrator shall be in his discretion and the arbitrator shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

18-F. When the amount of all betterment fee payable in respect of land in the area comprised in the scheme has been determined under section 18-B or 18-C, as the case may be, the Board shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made, and interest at the

Board to give notice to persons liable to payment of betterment fee.

126 rate of four per cent per annum upon any amount outstanding shall be payable from that date.

Agreement to make payment of betterment fee a charge on land.

18-G. (1) Any person liable to pay a betterment fee in respect of any land, may, at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of four per cent per annum, the first annual payment of such interest to be made one year from the date referred to in section 18-F.

(2) Every payment due from any person in respect of a betterment fee and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the existence of any mortgage or other charge, whether legal or equitable, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

(3) If any instalment of interest due under an agreement executed in pursuance of sub-section (1), be not paid on the date on which it is due, the betterment fee shall become payable on that date, in addition to the said instalment.

(4) At any time after an agreement has been executed in pursuance of sub-section (1), any person may pay off the charge created thereby, with interest, at four per cent per annum upto the date of such payment.

Recovery of money payable in pursuance of section 18-B 18-C or 18-G.

18-H. All money payable in respect of any land by any person in respect of a betterment fee under section 18-B or section 18-C or by any person under the agreement executed in pursuance of sub-section (1) of section 18-G, shall be recoverable by the Board (together with interest due, up to the date of realisation at the rate of four per cent per annum) from the said person or his successor-in-interest in such land in the manner provided by the City of Bangalore Municipal Corporation Act, 1949, for the recovery of taxes and if the said money is not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction and may

deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

18-I. The Board may direct by what authority any powers or duties incident under the City of Bangalore Municipal Corporation Act, 1949, to the enforcement of any process for the recovery of taxes, shall be exercised and performed when that process is employed under section 18-H.

Board to appoint persons for enforcement of processes for recovery of dues.

18-J. If any land, in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 18-B or has been made after its determination under section 18-C or in respect of which an agreement in regard to the betterment fee has been executed under section 18-G, be subsequently required for any of the purposes of this Act, the payment or agreement shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Mysore Land Acquisition Act, 1894.

Agreement of payment not to bar acquisition under a fresh declaration.

18-K. Notwithstanding anything contained in any other provision of this Act, the Board may, with the previous sanction of the Government, take up such works in regard to any area as the Board considers necessary or desirable for the further improvement of that area :

Power of Board to take up works for further improvement.

Provided that the Corporation shall be consulted if such area lies within the limits of the City of Bangalore.

The expenditure incurred or proposed to be incurred or such portion thereof as may be determined by the Board and approved by the Government in carrying out such works may be recovered by a pro-rata levy on the owners of properties benefited by such works as may be determined by the Board. The said sum may be recovered as any other sum due to the Board under the provisions of this Act.

18-L. Where the increase in value of any land is the result of the execution of an improvement scheme made on the recommendation of the Corporation and for which the Corporation has placed at the disposal of the Board the necessary funds for framing and carrying out such schemes, the betterment fee collected by the Board from the owners of such land shall be credited by the Board to the municipal fund of the Corporation."

Crediting betterment fee collected to the funds of the Corporation in certain cases.

Amendment
of section 20
of Mysore
Act V of 1945.

Substitution
of new section
for section 21
of Mysore Act
V of 1945.

Board and
Chairman to
exercise
powers and
functions
under Mysore
Act LXIX of
1949.

14. In section 20 of the said Act, for the words "President" and "Municipal drain", the words "Mayor" and "Corporation drain" shall respectively be substituted.

15. For section 21 of the said Act, the following section shall be substituted, namely:—

"21. (1) In any area or part thereof to which this Act applies, the Government may, by notification in the *Mysore Gazette*, declare that from such date and for such period as may be specified therein and subject to such restrictions and modifications, if any, as may be specified in the notification,

(i) the powers and functions of the Corporation or a standing committee thereof under the City of Bangalore Municipal Corporation Act, 1949, shall be exercised and discharged by the Board; and

(ii) the powers and functions of the Commissioner of the Corporation under the said Act, shall be exercised and discharged by the Chairman:

Provided that the Corporation shall be consulted before making such declaration, if such area or part thereof lies within the limits of the City of Bangalore.

(2) On the making of a declaration under sub-section (1), notwithstanding anything contained in any other law for the time being in force, the Corporation or any standing committee thereof or the Commissioner of the Corporation, shall not be competent to exercise or discharge the powers or functions conferred or imposed on the Board or the Chairman, as the case may be, by such declaration.

(3) The Board or the Chairman may delegate any of the functions exercisable by it or him under sub-section (1) to any officer or servant of the Board.

(4) The exercise or discharge of any of the powers or functions delegated under sub-section (3), shall be subject to such limitations, conditions and control as may